

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL FORUM
SALEM**

PRESENT: THIRU.M.NANDAN, B.A., B.Ed., B.L., PRESIDENT (i/c)
TMT.R.MALARKODI, B.A., B.L., MEMBER (i/c)

C.C.NO.105/2012

DATED THIS THE WEDNESDAY THE 19th DAY OF JUNE 2013

**M. Perumal,
S/o.Manickam,
D.No: 66, Sri Saravana Nivas,
Kamaraj Nagar,
Omalur – 636455.**

....Complainant.

-vs-

**M. Eakambaram,
Deputy Registrar Co-operative Societies,
Omlaur.**

.... Opposite party.

This complaint coming for hearing before us on 05/06/2013 in the presence of the complainant having appeared in person, Thiru. S.P. Bhuvaneshwaran, counsel for the opposite party and after hearing the complainant and counsel for the opposite party and perusal of both side documents and the case having stood over for our consideration till this day, this Forum passed the following.

ORDER

Complaint: This complaint is filed by the complainant under section 12 of CP Act 1986 for the following reliefs:

1. To order the opposite party to pay a sum of ₹.1,20,000/- as damages for deficiency of service committed by him.
2. To order the opposite party to pay a sum of ₹.1000/- as cost with other necessary reliefs.

2. Brevity of complainant:

The complainant applied to the opposite party to further information in respect of payment to the legal heirs under section 6 of Right to Information Act – 2005. He received the application on 11/08/2012, but not furnished any information, thereby he committed deficiency of service. The refusal to furnish information caused mental agony stress. Hence, he filed this complaint for the above relief.

3. Gist of Written version:

It is false to state that the opposite party has not furnished information. On 13/12/2010, the informations were furnished one Mr. Manickapandaram, deposited money through receipt No: 5620 to 5622 amounting ₹.30,000, ₹.10,000/- and ₹.10,000/-, ₹.25,000/- through receipt No: 6257, ₹.20,000/- on 7 receipt and ₹.10,000/- on one receipt through receipt Nos: 6322, 6318 to 6321. 6323 to 6325, and nominated his grand sons and daughters to the

₹.25,000/- as a nominee of his father. The COP.182/2001 dismissed on 28/06/2007. The complainant is aware all those things, but he filed this complaint. It is false to state that he sustain damages. The complaint is not maintainable. The opposite party has not committed deficiency of service. The complaint is liable to be dismissed.

4. Based on the allegation of the complaint and the written views of the opposite party the following points arises for consideration.

Points:

1. Whether the opposite party has committed deficiency of service?
2. Whether the complainant is entitled to the reliefs?
3. What is the relief to the complainant?

5. Point No: 1:

The complainant in his complaint alleges that, he paid ₹.10/- the required fee for furnishing information and sent an application to the opposite party, but he has not furnished the information. He is a consumer, and the non- furnishing of information amounts deficiency of service.

The fee is prescribed by the rules, without paying the fee, he cannot enter into the pervue of the Right to Information Act – 2005. It is only a statutory requirement. The opposite party is not collecting the fee for rendering any service. The Act requires the P.I.O, to furnish the information within 30 days. Under section 7 (2) if the information is not furnished within the period of 30 days it amounts refusal, that is he denied the information.

The Hon'ble High Court in the case of the **Managing Director, Aranthangi Chemicals Pvt. Ltd., Pudukottai District -vs- TR. Ravi and Others. WP (MD) No: 8084 of 2010 and MP (MD) No: 2 of 2010**, taken the view that a complaint before the consumer Forum is not maintainable under section 23A of Right to Information Act. But, neither the Hon'ble High Court nor the apex court interpreted section 7(2). In legal sekse refusal is denial. Denial or rejection of something offered or demanded, the declination of a request or demand or the omission to comply with some requirement of law as the result of a positive intention to disobey. In the case of **State of West Bengal -vs- National Builders (AIR 1994 SC 200)** the apex court decided that, refusal to do means denial to do something which one is obliged to do under law, unless, sec 7(2) is interpreted by the apex court or the High court, whether refusal is an order or not binding the Consumer Forum. It is a bar under section 23 A of the Right to Information Act. The complainant is at liberty to get interpretation from the Hon'ble High court. The complainant cited the rulings of the National Commission in the case of **Dr. S.P. Thirunsala Rao - vs- Municipal Commissioner, Mysore city Municipal Corporation**. In that the Hon'ble National Commission decided that, the appellant paid ₹.10/- as fee, hence the case falls within the ambit of sec 2 (1)(0) of CP Act. But, interpretation of particular statute is with in the power of Supreme Court and High Court. The Madras High Court held that, the non- furnishing of the information is not attracted by the provisions of CP Act and the Forum cannot entertain such cases. It is binding this Forum. Hence, we decide that non-furnishing information is not attracted to take cognizantion under provisions of CP Act – 1986.

6. Point No: 2:

In view of the findings for Point No: 1, we decide that, the complainant is not entitled for any relief.

7. Point No: 3

In the result, this complaint is dismissed. Considering the age of the senior citizen, cost is not imposed.

This order is written by the President in his own hand writing and pronounced in the open Forum on this day of 19th June, 2013.

MEMBER (i/c)


PRESIDENT (i/c)

List of documents filed by the complainant:

- Ex.A1,** RTI application copy, dated: 19/11/2010.
- Ex.A2,** Acknowledgement copy, dated: 22/11/2010.
- Ex.A3,** legal notice issued by the opposite party, dated: 11/08/2012.
- Ex.A4,** An advertisement about a case fined for not furnishing information under RTI Act.
- Ex.A5,** An advertisement of Supreme Court case based on nomination.
- Ex.A6,** letter sent by RBI, Chennai, Chennai, dated: 04/05/2001.
- Ex.A7,** letter sent by RBI, Mumbai, dated: 10/08/2001.
- Ex.A8,** State Human Rights Commission, Tamil Nadu, order (Case No: 7626/2008) copy, dated: 02/09/2008.
- Ex.A9,** letter issued by Directorate of Tamil Nadu Co-operative Societies to opposite party, dated: 19/08/2010.
- Ex.A10,** representation letter issued by the RDO, Mettur, dated: 22/02/2010.
- Ex.A11,** letter issued by the District Collector, Salem, dated: 07/09/2011.
- Ex.A12,** letter issued by the District Collector, Salem, dated: 29/11/2011.
- Ex.A13,** letter sent to Chief Sec. to Government, Chennai, dated: 13/10/2012.
- Ex.A14,** legal opinion copy issued by the Advocate R. Srinivasan, dated: 08/08/2000.
- Ex.A15,** letter copy of Home (Courts -V) dept, Secretariat, Chennai - 9, dated: 14/11/2012.
- Ex.A16,** letter copy of BAR council of Tamil Nadu, Chennai, dated: 06/12/2012.

List of documents filed by the Opposite party:

- Ex.B1,** Complainant RTI application copy, dated: 19/11/2010.
- Ex.B2,** reply letter sent to the complainant, dated: 13/12/2010.
- Ex.B3,** reply letter sent to the complainant, dated: 16/03/2011.
- Ex.B4,** letter sent to the complainant, dated: 06/04/2011.
- Ex.B5,** letter sent to the Registrar, Co-op. Societies, dated: 03/05/2011.
- Ex.B6,** copy of application sent by the complainant to the registrar, dated: 29/05/2011.
- Ex.B7,** letter sent to the complainant, dated: 16/06/2011.
- Ex.B8,** Judgement copy CC.182/2001 of Salem District Consumer Disputes Redressal Forum, Salem, dated: 28/06/2007.